

SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: Approval of a Mitigation Agreement for the Purchase of a Conservation Easement from Brio, LLC, in Conjunction with the State Road 426/County Road 419 Widening Project from Pine Avenue to Avenue B in Oviedo (FDOT~ FPN: 415030-1-38-01)

DEPARTMENT: Public Works

DIVISION: Engineering

AUTHORIZED BY: Gary Johnson

CONTACT: Brett Blackadar

EXT: 5702

MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute a Mitigation Agreement for the purchase of a conservation easement from Brio, LLC, owner of the Brio Mitigation Area to offset wetland impacts associated with the State Road 426/County Road 419 Widening Project from Pine Avenue to Avenue B in Oviedo (FDOT~ FPN: 415030-1-38-01).

District 1 Bob Dallari
District 2 Michael McLean

Jerry McCollum

BACKGROUND:

This roadway improvement project will widen State Road 426/County Road 419 between Pine Avenue and Avenue B from 2 to 4 lanes. Phase 1 of this project will include intersection improvements at the intersection of State Road 426/County Road 419 and State Road 434 as well as the re-alignment of County Road 426 (Geneva Drive).

The construction of the intersection improvements will impact 0.050 acres of existing wetlands. In order to mitigate these impacts, St. Johns River Water Management District (Application #4-117-120191-1) is requiring the purchase of wetland mitigation units by the Unified Mitigation Assessment Method (UMAM) at a cost of \$35,000. The Brio Mitigation Area has a minimum purchase of 0.10 acres at a cost of \$350,000 per acre. The attached agreement will purchase the wetland mitigation units from Brio, LLC, owner of the Brio Mitigation Area. Funds for this mitigation are currently available for this project in the FY 2009/10 Budget (Capital Improvement Project Number 00205202).

STAFF RECOMMENDATION:

Staff recommends that the Board approve and authorize the Chairman to execute a Mitigation Agreement for the purchase of a conservation easement from Brio, LLC, owner of the Brio Mitigation Area to offset wetland impacts associated with the State Road 426/County Road 419 Widening Project from Pine Avenue to Avenue B in Oviedo (FDOT~ FPN: 415030-1-38-01).

ATTACHMENTS:

1. Location Map-State Road 426-County Road 419 Widening Project
2. Mitigation Agreement - State Road 426-County Road 419

Additionally Reviewed By:

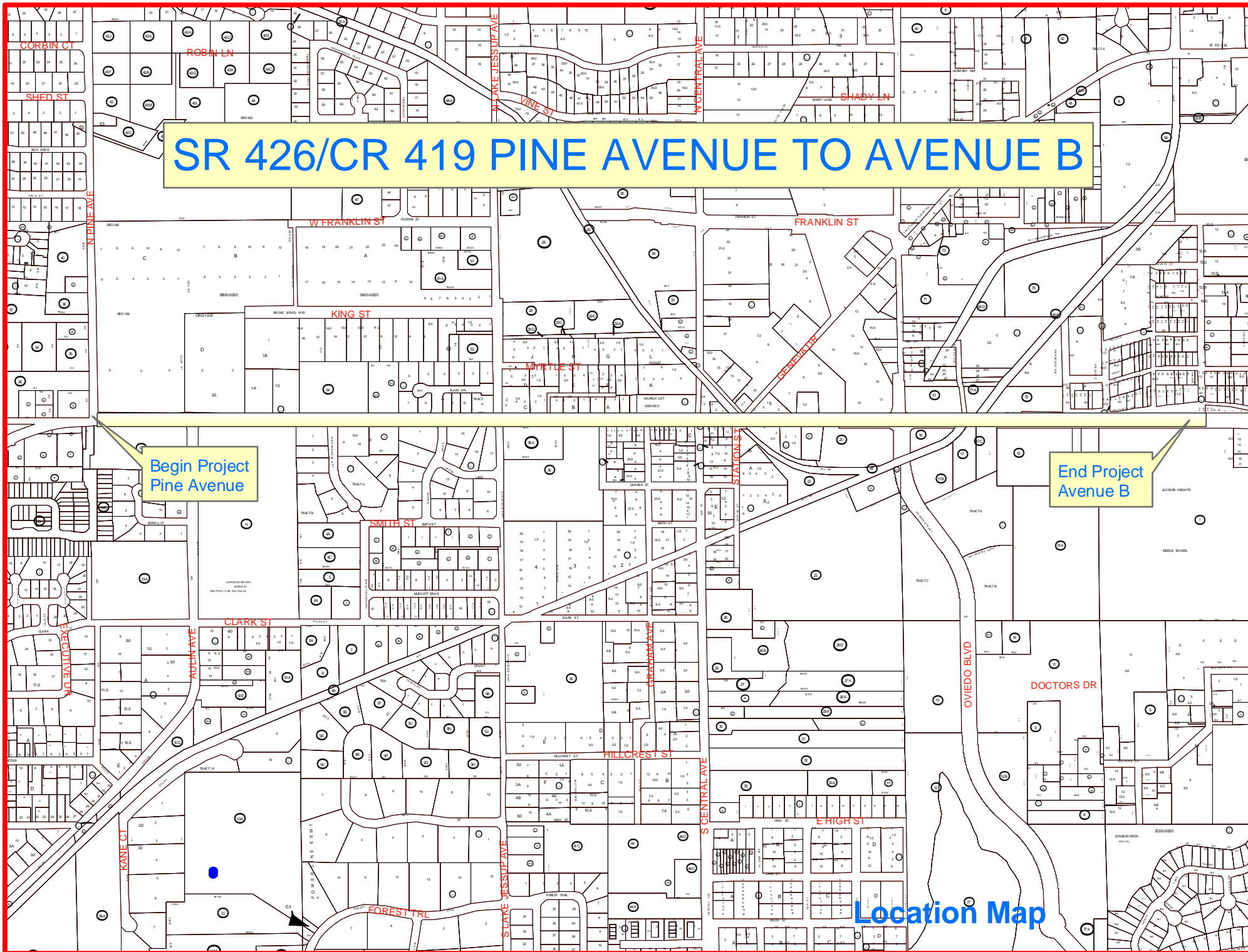
- ☒ Budget Review (Fredrik Coulter, Lisa Spriggs)
- ☒ County Attorney Review (Matthew Minter)

SR 426/CR 419 PINE AVENUE TO AVENUE B

Begin Project
Pine Avenue

End Project
Avenue B

Location Map



MITIGATION AGREEMENT
SJRWMD APPLICATION NO. 40-117-120191-1

On this ____ day of _____, 2009, **BIO-TECH CONSULTING, INC.**, a Florida corporation (hereinafter, "Seller") which exclusively represents Brio, LLC, which is a Florida limited liability corporation organized under the laws of the State of Florida, and has the ownership rights of the Brio Mitigation Area does hereby offer to provide for the sole benefit of **SEMINOLE COUNTY**, a political subdivision of the State of Florida, (hereinafter, "Buyer"), an unencumbered conservation easement from Brio, LLC, to the St. Johns River Water Management District (SJRWMD) over an adequate acreage of uplands, wetlands or a combination of the two at the Brio Mitigation Area (the "conservation easement"), which will be appropriate to provide a total of 0.05 state only UMAM Mitigation Units as requested by the consultant for the project (Inwood Consulting Engineers). Seller warrants that it has full legal authority to commit Brio, LLC, to convey the conservation easement described herein to SJRWMD.

At such time that full payment is made, Seller agrees to convey to SJRWMD and record an unencumbered conservation easement over an adequate portion of the Brio Mitigation Area, for the mitigation purchased. In this instance, the Buyer has indicated that this mitigation conservation easement is to be used to offset the wetland impacts associated with the construction of the SR 434/SR 426 Intersection Improvements in Seminole County ("project"), SJRWMD Application No. 4-117-120191-1. Seller warrants that the conservation easement reserved herein is and will be available for application by

the Buyer for assignment to this project within the terms described herein. Seller makes no warranty that the conservation easement reserved herein is sufficient to offset any particular impact associated with the Buyer's project.

Seller hereby commits to reserve and assign the appropriate acreage from the Brio Mitigation Area in Seminole County to the Buyer if a deposit in the amount of TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) is submitted with this signed agreement, and the remaining balance payment TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00) is made within thirty (30) days of SJRWMD permit issuance. The total purchase price for the conservation easement from the Brio Mitigation Area is THIRTY-FIVE THOUSAND DOLLARS AND NO/CENTS (\$35,000.00), which price is inclusive of all costs and expenses incurred or to be incurred by Seller or Brio, LLC, as necessary to convey the conservation easement described herein to SJRWMD. This agreement is subject to acceptance within thirty (30) days of the above date. Beyond that time, the price and availability of the conservation easement cannot be guaranteed.

The remaining balance of the purchase price shall be due and payable within thirty (30) days of issuance of the SJRWMD permit authorizing the use of any or all of the conservation easement to offset wetland impacts. If payment is not received within thirty (30) days of SJRWMD permit issuance, the SJRWMD will be formally informed that the conservation easement from the Brio Mitigation Area is no longer available for this project and the initial deposit will be

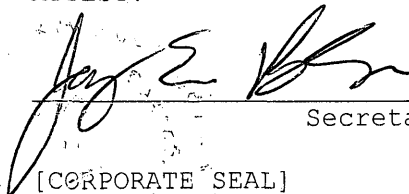


forfeited. In the event that the conservation easement for mitigation described herein is not accepted by SJRWMD for this project, the deposit will be refunded to Buyer within twenty (20) days following written notification thereof from the Buyer, otherwise, the deposit shall be considered earned and non-refundable.

Payments shall be made to: Bio-Tech Consulting, Inc., and delivered to: Bio-Tech Consulting, Inc., 2002 East Robinson Street, Orlando, FL 32803. Upon receipt of the signed agreement and deposit, Seller will forward a copy of the mitigation package and Conservation Easement to the Buyer's consultant.

ATTEST:

BIO-TECH CONSULTING, INC.


Secretary
[CORPORATE SEAL]

By: 
JOHN MIKLOS, President

Date: 11-5-09

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
BOB DALLARI, Chairman

Date: _____

For the use and reliance
of Seminole County only.

Approved as to form and
legal sufficiency.

As authorized for execution
by the Board of County Commissioners
at their _____, 20____
regular meeting.

County Attorney

MGM

11/05/09

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